

Office of the Health Insurance Commissioner

Special Legislative Commission to study the feasibility of enacting legislation to empower primary care providers to jointly negotiate with insurers

Meeting Minutes

December 7, 2007

“The purpose of the Commission shall be to develop recommendations for strengthening the role of the state’s primary care providers within the health system, including, legislative recommendations regarding the creation of a state- authorized and state-monitored mechanism allowing primary care providers to jointly negotiate health care provider and participation agreements with health insurers.”

1. Attendance:

Present: Stephen D’Amato M.D., Maureen G. Glynn, David Ashley M.D., Ana Novais.

OHIC Staff: Patricia Huschle

2. Introductions/Minutes approved

Pat Huschle welcomed the group. The members of the commission approved the minutes from the 11/27 meeting.

3. Discussion of 11/27 meeting information

The members of the Commission each reacted to the information provided at the last meeting regarding State Action exemption and the feasibility of implementing such legislation in Rhode Island. It was noted that the process as identified was both time consuming and costly and the outcomes and consequences are unclear. Maureen Glynn indicated that there is a possible conflict of interest with the Attorney General's role as described in previous versions of the legislation. No one on the commission expressed a desire to move forward with State Action Exemption legislation.

4. Evaluate the Feasibility of State Action exemption

The Group made a list of the reasons why State Action is not feasible which included the following:

- Lack of Success in states where similar laws have been passed**
- Prohibitively expensive with many financial hurdles including Attorney General/OHIC staffing, cost to physicians for economic studies and resource issues in the judiciary.**
- Time consuming and lengthy process**
- Such negotiations would not apply to all insurance lines of business, only to commercial plans fully insured.**
- Risk antitrust violations even “getting to the table”**
- Potential conflicts of interest for both the OHIC and the Attorney General's office.**
- Potential cost to the health care system-increase of premium,**

increased numbers of uninsureds

- Binding arbitration is problematic and state action exemption may not be sufficient to protect insurance companies or physicians from violating antitrust laws.**
- Lack of interest by payers to be willing to negotiate in this manner.**

5. Other Avenues to Support Primary Care

The Commission then “brainstormed” on other ideas to strengthen primary care to be included in the report to the legislature. The group stated however that any recommendations would need to be evaluated against the state’s current health care delivery system to include the impact on access to primary care physicians and volume of uninsureds in the state.

- “Voluntary” Commission made up of parties on both sides where issues (fee and non-fee) can be presented. Possible OHIC to set the ground rules with the goal being a voluntary dispute resolution between an individual practice and a single health plan.**
- “Mandating” conditions in Health plan contracts.**
- Material changes to provider contracts to be evaluated by “voluntary commission”.**
- Consider expansion of OHIC or DOH jurisdiction to include review of material health plan/ provider contract changes with provider input (hearings?) and public review (informational)**

- OHIC/DOH to establish regulations with which to measure the impact of contract modifications; to include patient safety, administrative burden to the practice and impact of change on health care system as a whole.
- Legislation that requires Health plans to provide their fee schedules to OHIC/DOH for competitiveness review (would require additional funding to implement)
- Legislation that sets minimum provider rates
- Encourage catastrophic plans (hospital only) where MDs can charge patients fee for service
- Require benefit plans to pay for tests ordered by non-par physicians for all lines of business.
- Encourage funding from health plans to primary care physicians who meet benchmarks including alternative Funding mechanisms like pay for performance or payment for establishing a Medical Home infrastructure.
- Require ongoing monitoring of health plan changes to determine the cost/benefit ratio of such changes
- Encourage legislation that promotes tax breaks/loan forgiveness for primary care physicians to practice in Rhode Island.
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6. Report Format

Pat Huschle informed the commission of the possible format for the report to the legislature. The first few pages of the report will include detail about the current climate of primary care in Rhode Island. Drs Ashley and Damato volunteered to assist in this effort. Followed by

the Commissions' process to evaluate State Action Exemption, then the detail on the reasons why the Commission does not think State Action is feasible at this time, then recommendation to improve primary care that need to be further explored.

7. Public Comment

The public was invited to make comment. Several people expressed the concern about the impact of any recommendation on the number of uninsureds in the state.

8. Next Meeting

The next meeting of the Commission is Monday December 17th, 3:30pm to 5 pm. The Commission will be evaluating the draft report to the legislature.